

REMARKS

At the outset, the Examiner is thanked for the thorough review and consideration of the pending application. The Office Action dated March 17, 2009 has been received and its contents carefully reviewed.

Claims 5, and 7-10 are hereby amended. No new matter has been added. Claims 6, and 11-18 are hereby canceled without prejudice to or disclaimer of the subject matter contained therein. Accordingly, claims 1-5, and 7-10 are currently pending, of these claims 1-4 are withdrawn from consideration. Reexamination and reconsideration of the pending claims is respectfully requested.

In the Office Action claims 6-9 and 18 are objected to for informalities noted therein. *Office Action* at p.2, ¶ 2. Without agreeing with the Office, the objection of claims 6 and 18 is moot as claims 6 and 18 are canceled herein. Claims 7-9 have been amended to correct an inadvertent grammatical error. Accordingly, Applicants respectfully request that the Office withdraw this objection.

Claim 18 is rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. *Office Action* at p.3, ¶ 4. Without agreeing with the Office, but in the interest of advancing the application to allowance, Applicants have canceled claim 18. Accordingly the rejection of claim 18 is moot.

Claims 13-15 and 17-18 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,264,043 to Milocco (hereinafter "Milocco"). *Office Action* at p.3, ¶ 7. Without agreeing with the Office, but in the interest of advancing the application to allowance, Applicants have canceled claims 13-15 and 17-18. Accordingly, the rejection of claims 13-15 and 17-18 is moot.

Claims 5-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Milocco. *Office Action* at p.5, ¶ 11. Without agreeing with the Office, but in the interest of advancing the application to allowance, Applicants have canceled claim 6. Accordingly the rejection of claim 6 is moot. Applicants respectfully traverse the rejection of the remaining claims and request reconsideration.

Independent claim 5 is allowable over the cited references in that claim 5 recites a combination of elements including, for example, “selecting a wash cycle by a user and inputting operation commands; beginning a cycle according to the selection of the wash cycle and operating a wash pump and a discharge member, the discharge member switching between an upper arm and a lower arm, the switching of the discharge member between the upper arm and the lower arm occurring at least once; determining by the controller whether the switched discharge member is the upper arm before the cycle ends; switching the discharge member to the upper arm when the determined discharge member is the lower arm; operating the upper arm for a setting time; and performing remaining stages of the wash cycle and other operations.” *Milocco* does not teach or suggest at least these features of the claimed invention.

The Office asserts that *Milocco* teaches “the distributor switches between the upper spray arm and the lower spray arm” and “a programmer ... switches the discharge member at time t3” *Office Action* at p. 6. *Milocco*, however, discloses that “[a]t time t3, the programmer ... controls the flow distributor 12 to switch to the position in which it places the delivery side 9 of the pump 8 in communication with only the upper spray arm 11” and “[d]uring this phase t3-t4 ... the lower spray arm 10 is inoperative.” *Milocco* at col. 4:39-42 and lines 57-58. Thus, the programmer only switches the discharge member from the lower spray arm to the upper spray arm. *Milocco* is entirely silent as to any teaching or suggestion concerning switching from the upper spray arm to the lower spray arm. In contrast, Applicants claim “the discharge member switching between an upper arm and a lower arm, the switching of the discharge member between the upper arm and the lower arm occurring at least once,” as recited in independent claim 5. Therefore, *Milocco* does not teach or suggest all of the features as recited in independent claim 5.

Additionally, *Milocco* is entirely silent as to any teaching or suggestion concerning “determining by the controller whether the switched discharge member is the upper arm before the cycle ends; switching the discharge member to the upper arm when the determined discharge member is the lower arm; operating the upper arm for a setting time” as claimed in independent claim 5. *Milocco* discloses, that “[a]t time t3, ... the flow distributor 12 ... places the delivery side 9 of the pump 8 in communication with only the upper spray arm 11.” *Milocco* at col. 4:39-42 and Figs. 2-4. Thus, *Milocco* merely discloses that the upper spray arm is operated after the operation of the lower spray arm. Therefore, *Milocco* does not teach or suggest “determining by

the controller whether the switched discharge member is the upper arm” and “switching the discharge member to the upper arm when the determined discharge member is the lower arm,” as recited in the claims.

Next, the Office asserts that “*Ranft* teaches that it is beneficial to end a cycle by supplying water from an upper arm to wash off any accumulated soil particles that may adhere to the dishes being washed.” *Office Action* at p. 7, ¶ 12. *Ranft*, however, fails to cure the deficiencies of *Milocco* with respect to claim 5.

Indeed, *Ranft* was set forth by the Office for its purported teaching of “determining by the controller whether the switched discharge member is the upper arm before the cycle ends; switching the discharge member to the upper arm when the determined discharge member is the lower arm; operating the upper arm for a setting time” *Office Action* at p. 7. *Ranft*, however, discloses that “[t]his flow will continue to the top spray arm 49, so that at all times during drain mode, there will be a continuing rinsing effect.” *Ranft* at col. 7:6-11. Therefore, supplying water by the top spray arm is performed during the drain mode. If one in ordinary skill in the art applied the feature of *Ranft* to the controller of *Milocco*, *Milocco*’s controller of the washing machine may operate the upper arm during the drain cycle which is performed after the wash cycle without the determining operation. Also, *Ranft* is entirely silent as to any teaching or suggestion concerning “determining by the controller whether the switched discharge member is the upper arm before the cycle ends; switching the discharge member to the upper arm when the determined discharge member is the lower arm; operating the upper arm for a setting time” as claimed in independent claim 5. Thus, none of the cited references, either individually or in combination, teaches or suggests each and every element of independent claim 5.

For the reasons stated above, Applicants respectfully submit that claim 5 is patentably distinguishable over *Milocco* or *Milocco* in view of *Ranft*. Claims 7-9, which depend from independent claim 5, are also patentably distinguishable for at least the same reasons as discussed above. Accordingly, Applicants respectfully request that the Office withdraw the 35 U.S.C. § 103(a) rejection of claims 5-9.

Claims 10-12 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Milocco* in view of *Ranft*. *Office Action* at p.6, ¶ 12. Without agreeing with the Office, but in

the interest of advancing the application to allowance, Applicants have canceled claims 10-12 and 16. Accordingly, the rejection of claims 10-12 and 16 is moot.

CONCLUSION

All the stated grounds of rejection have been properly traversed, accommodated, and/or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently outstanding objection and rejections and that they be withdrawn.

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at (202) 496-7500 to discuss the steps necessary for placing the application in condition for allowance. All correspondence should continue to be sent to the below-listed address.

If these papers are not considered timely filed by the Patent and Trademark Office, then a petition is hereby made under 37 C.F.R. §1.136, and any additional fees required under 37 C.F.R. §1.136 for any necessary extension of time, or any other fees required to complete the filing of this response, may be charged to Deposit Account No. 50-0911. Please credit any overpayment to deposit Account No. 50-0911.

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Respectfully submitted,

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